

FTC Published Supplemental Notice of Proposed Rulemaking (SNPRM)
State of Michigan Response

Used Vehicle Buyers Guide:

The FTC is proposing further amendments to the Used Motor Vehicle Trade Regulation Rule ("Rule" or "Used Car Rule") that would: (1) require vehicle dealers to indicate on the Buyers Guide whether they obtained a vehicle history report, and, if so, to provide a copy of the report to consumers who request it; (2) revise the Buyers Guide statement describing the meaning of an "As Is" sale in which a dealer offers a vehicle for sale without a warranty; and (3) move boxes to the front of the Buyers Guide for dealers to indicate whether non-dealer warranties apply to a vehicle.

Michigan does not support any of the proposed Buyers Guide changes.

Michigan believes that requiring dealers to indicate on the Buyers Guide whether they obtained a vehicle history report is unenforceable. There is no mechanism to determine if a dealer obtained a vehicle history or not. The proposed change does not afford additional protection to consumers because it is predicated on voluntary compliance by the vehicle dealer in the absence of tangible regulatory monitoring and the vehicle dealer compliance cannot be verified.

The rule change revises the Buyers Guide statement describing the meaning of an "As Is" sale in which a dealer offers a vehicle for sale without a warranty will not be effective. This rule change will not provide consumers more protection and may unintentionally abrogate the rights of consumers.

The existing Buyers Guide states:

"AS IS—NO WARRANTY YOU WILL PAY ALL COSTS FOR ANY REPAIRS. The dealer assumes no responsibility for any repairs regardless of any oral statements about the vehicle."

The proposed rule change states:

"AS IS—NO DEALER WARRANTY THE DEALER WILL NOT PAY FOR ANY REPAIRS. The dealer does not accept responsibility to make or to pay for any repairs to this vehicle after you buy it regardless of any oral statements about the vehicle. But you may have other legal rights and remedies for dealer misconduct."

More than forty attorney-practitioners responded and stated the proposed revision misstates the law and consumers' rights. Several commenters noted the proposed SNPRM revisions may deter consumers from pursuing potential remedies. Leave the "AS IS" statement as is since 1984.

The FTC also proposes moving third-party Warranty Boxes to the front of the Buyers Guide. Ostensibly, this will provide consumers with a better description of their third party warranty

rights. However, it is not clear if this change will afford additional consumer protections.

Michigan does not support the proposed Used Vehicle Buyers Guide rule changes.

NMVTIS:

Michigan agrees with FTC that consumers should have a choice in obtaining a vehicle history report. Michigan also strongly believes that it is very important to provide information to consumers on where to obtain a vehicle history report.

States have been inputting information into NMVTIS to build a central data repository that serves as an integral component of vehicle history reports. NMVTIS provides access to the central data repository for consumers to get a vehicle history report. The NMVTIS vehicle history Website (www.vehiclehistory.gov) provides a gateway to consumers to find important vehicle condition and history information through approved providers.

Michigan believes that the use of NMVTIS data does not exclude the utility of any other commercially available vehicle history report data, but NMVTIS data does need to be included in any vehicle history report in order to effectively combat fraud.

In addition, the NMVTIS central data repository has successfully been used by motor vehicle agencies to prevent certain histories, such as flood damage, from being concealed in the titling process..

Last, a refusal by the FTC to recognize the efforts of the states in providing data and using NMVTIS could be viewed as an attempt to devalue the federally mandated title check process and ignore the public service commitments of state and federal (DOJ) governments.